

REMARKS/ARGUMENTS

In response to the rejection of the claims under 35 U.S.C. § 112, Claims 19, 22, 23, 25, 33 and 38 have been revised to correct the indefiniteness issue.

Dependent Claims 39, 40 and 41, which were not rejected as being unpatentable over the prior art, have been amended to place them in independent form including the revisions made to Claim 19 in response to the rejection under 35 U.S.C. § 112. It is therefore submitted that these claims are in condition for allowance.

Independent Claim 19 stands rejected as obvious over the combination of Föttinger '461 and Yokoyama et al '999. This claim has been amended to define with a greater particularity the "means for influencing" limitation as reducing torque transmission by introducing the separate element into the working chamber to disturb the flow of the operating material or removing the element from a sub-region of the wall to disturb the flow of the operating material. In Föttinger, on the other hand, the reactor member is inserted into the working circuit to increase the torque transmitted by the hydraulic transmission. Specifically, Föttinger discloses:

"For increasing the tractive effort and at the same time the efficiency the guide device consists of two rims 31, 31' the one of which 31' being adapted to be inserted into the circuit or withdrawn into the chamber 32 according to the speed desired in an axial direction into the same circuit.

According to the invention, this measure can be further improved by not only a second guide apparatus but also a second turbine wheel 30' being inserted in a suitable way, e.g. also by an axial displacement into and from the chamber 34. Then a turbine wheel adapted to the particular running speed will correspond to each guide apparatus (Fig. 3)."

Thus, in Föttinger the reactor member is inserted into the working circuit to increase the torque transmitted by the transmission whereas in the present invention the torque transmitted is reduced either by introducing a mechanical built-in part into the working chamber to disturb the flow or removing a sub-region of the wall, again to disturb the flow.

Support for the amendment to Claim 19 is found at paragraphs 5, 7, 26 and 28 of the application as filed.

Application Serial No. 10/595,663
Amendment dated August 4, 2009
Reply to Office Action dated April 7, 2009

As discussed in a previous response, the reactor or stator member 20 is connected to stationary housing 26 and therefor does not rotate with impeller member 16 or turbine member 18.

In view of the above, it is submitted that Claims 19-38 are not rendered obvious by the combination of Föttinger and Yokoyama. The Examiner is invited to telephone the undersigned if such would be of assistance in expediting prosecution of the application.

In the event Applicants have overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Respectfully submitted,

John F. Hoffman
Registration No. 26,280

Attorney for Applicants

JFH/nw

BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802
Telephone: 260-424-8000
Facsimile: 260-460-1700

Enc. Petition for Extension of Time
Check No. 133546 (\$350.00)
Return Postcard

CERTIFICATION OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: August 4, 2009

JOHN F. HOFFMAN, REG. NO. 26,280

Name of Registered Representative

Signature

August 4, 2009

Date